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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/181,126 10/28/98 ROHS

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PM82/0522

EXAMINER

DUNWOODY, A

ART UNIT

PAPER NUMBER

3629

DATE MAILED:

05/22/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Office Action Summary**

Application No.

09/181,126

Applicant(s)

ROHS ET AL.

Examiner

Aaron M Dunwoody

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 17, 19 and 21 is/are rejected.
- 7) ☒ Claim(s) 13-16, 18 and 20 is/are objected to.
- 8) ☐ Claims \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☒ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

**Attachment(s)**

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

Claim 18 is objected to because of the following informalities: Change line 4 from "and] a" to "and a". Appropriate correction is required.

Applicant is advised that should claim 18 be found allowable, claim 20 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). In particular, claim 18 recites "a grease collector arranged radially inwardly, in particular a gap (51) directed behind a guide surface (5)", and claim 20 recites "the grease collector is formed by a gap (51) directed behind a guide surface (5)."

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12, 19 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 12 recites the limitation "sealing ring" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 21 recites "where the grease is formed by at least one opening (6) or hole (60)"; however, it is not clear to the examiner whether "the grease is formed" in a manner that would shape or mold the grease, or "the grease is formed" by an opening or hole and not derived (formed) from petroleum.

***Claim Rejections - 35 USC § 102***

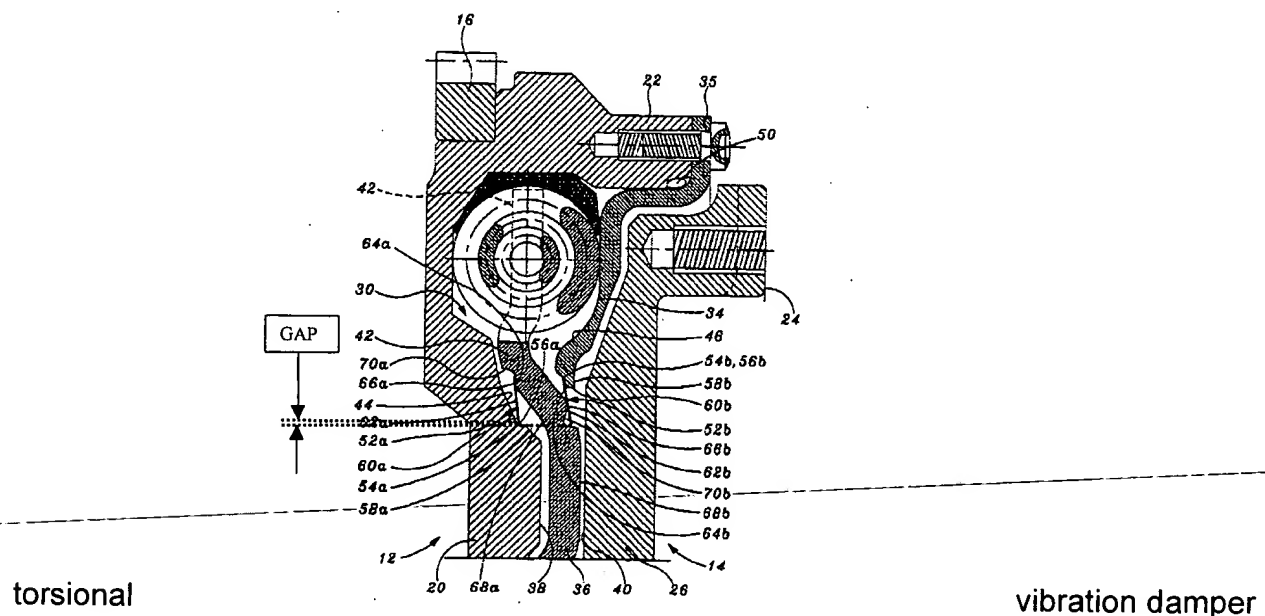
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by US patent 5667053, Rohrlé. In regards to claim 1, in figure 3 below, Rohrlé discloses a

FIG. 3



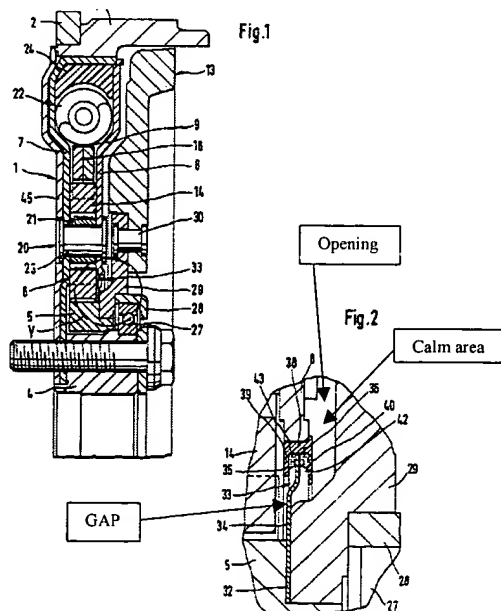
comprising two modules (20, 36, 26, 34) that rotate in relation to each other, and a

spring chamber (30), the first module (26, 34) having a first guide surface (60B) and sealing the spring chamber radially outward, whereby the first guide surface is at a distance from the second module (20, 36) across a gap and is essentially radial, and further comprising an essentially radial second guide surface (60A) which covers the gap on the spring chamber side.

In regards to claims 2 and 3, in figure 3 above, the first guide surface is a baffle in the shape of a washer, and is fixed to the first module.

In regards to claims 4 and 5, in figure 3 above, the second guide surface is designed as a guide disk in the shape of a washer.

Claims 1, 4-20 are rejected under 35 U.S.C. 102(e) as being anticipated by US patent 5911628, Sudau. In regards to claim 1, in figures 1 and 2 below, Sudau discloses



a torsional vibration damper

comprising two modules (1,13) that rotate in relation to each other, and a spring chamber (22), the first module (1) having a first guide surface (36) and sealing the

spring chamber radially outward, whereby the first guide surface is at a distance from the second module (13) across a gap and is essentially radial, and further comprising an essentially radial second guide surface (34) which covers the gap on the spring chamber side.

In regards to claim 4, in figures 1 and 2 above, the second guide surface is designed as a guide disk.

In regards to claim 6, in figures 1 and 2 above, the guide disk is fixed to the first guide surface.

In regards to claim 7, in figures 1 and 2 above, between the first guide surface and second guide surface there is provided at least one opening (42) that faces the spring chamber.

In regards to claim 8, in figures 1 and 2 above, the opening is situated so that a particle moving radially can pass through.

In regards to claim 9, in figures 1 and 2 above, between the first and second guide surfaces close to the gap there is provided a calm area that is situated between the first guide surface and the second module.

In regards to claim 10, in figures 1 and 2 above, the calm area has an opening extending radially outward that leads to the spring chamber.

In regards to claim 17, in figures 1 and 2 above, a grease transporting system activated by centrifugal force.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over US patent 5911628, Sudau. Sudau discloses the claimed invention except for a sealing material that covers the gap between the first guide surface and the second module at least when the torsional vibration damper is at rest. It would have been an obvious matter of design choice to modify the sealing material to cover the gap between the first guide surface and the second module at least when the torsional vibration damper is at rest, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

***Allowable Subject Matter***

Claims 13-16, 18 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 12 and 19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not disclose a torsional vibration damper wherein

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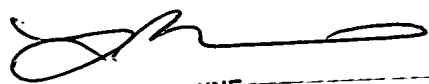
the second module has a third, essentially radial guide surface that covers an axial gap between the second guide surface and the second module; a sealing means depending on an angle of rotation between the first and second module; nor a grease transporting system having a grease collector arranged radially inwardly, in particular a gap directed behind a guide surface, and a grease dispenser that is radially further out.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M Dunwoody whose telephone number is (703) 306-3436. The examiner can normally be reached on Monday - Friday between 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on (703) 308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

.amd  
May 17, 2000



LYNNE H. BROWNE  
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